

**MINUTES
FOR THE REGULAR MEETING
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD
Docket No. 5486**

1. Opening of Meeting:

The Appeals Board convened at 10:30 p.m., September 11, 2007 in Sacramento, with Chair Rick Rice presiding.

2. Roll Call: <u>Members</u>	<u>Present</u>	<u>Absent</u>
Rick Rice, Chair	x	
Fred Aguiar, Vice Chair	x	
Ann Richardson	x	
Terri Carbaugh	x	
Liz Figueroa	x	
Cindy Montañez	x	

3. Approval of the Minutes:

The August 16, 2007 minutes were approved by all members except Member Egan, who was not on the Board at the time of the August meeting.

Member Carbaugh requested an amendment to the minutes regarding the explanation given for new timeliness standards. She indicated that she wished for the minutes to reflect that she does not understand the explanation of the new timeliness standards, including their effective date. She also requested another report to re-explain the new timeliness standards. Executive Director/Chief Administrative Law Judge Jay Arcellana indicated he would clarify the standards at the next board meeting. At Executive Director Arcellana's recommendation, the August minutes were not amended, and the minutes of the September meeting will be used to reflect Member Carbaugh's concerns.

4. Chair's Report:

Chair Rice stated the Governor had ordered that all state agency flags to be flown at half-mast today in honor of September 11th. Chair Rice called for a moment of silence.

Chair Rice reported that Labor Agency received a memo from the Labor Workforce Development Agency regarding the appointment of Dale Jablonsky as the Acting Agency Information Officer. Chair Rice stated that Dale Jablonsky has been with EDD for a number of years and that he will be responsible for overseeing all the IT projects throughout the Labor Agency including all the Board.

Chair Rice welcomed Stephen Egan as the newest Member to the Board.

5. Board Member Reports:

Members Richardson, Carbaugh, Figueroa, and Montañez also welcomed Member Egan to the Board.

6. Chief Administrative Law Judge/Executive Director's Report:

Executive Director/Chief Administrative Law Judge Jay Arcellana reported that PALJ Hugh Harrison would present the Workload Report for the Agency and that ALJ Angela Bullard would present a PowerPoint on the new Administrative Law Judge training.

Executive Director Arcellana, on behalf of Senior Staff and the Field Operations, welcomed Member Egan to the Board.

Executive Director Arcellana reported on the Quarterly Meetings conducted with the PALJs and Supervisors. He stated that Chair Rice and Member Figueroa were able to attend the PALJ meeting, and that Chair Rice also attended the supervisors' meeting. He reported that the plan to regionalize some functions was discussed and is supported by both the supervisors and PALJs. Executive Director Arcellana stated that the one theme that was common throughout both meetings was the shortage of staff to handle the workload. Other notable issues were the relocation of the Fresno Office of Appeals, which is taking place next month, and the prospective relocation of both the Oxnard and San Jose Offices of Appeals.

Executive Director Arcellana reported that the Legal Support Supervisor for the Orange County Appeals Office will be retiring in June. She has been with the office for some 20 years, and an employee with the CUIAB for 40 years, and difficult to replace.

Executive Director Arcellana reported that this week our quarterly meeting with the EDD Disability Insurance Branch takes place; the DI workload has been picking up recently.

7. Branch Reports:

a. Executive Director/Chief Administrative Law Judge Jay Arcellana introduced PALJ Hugh Harrison to give the Workload Report.

Hugh Harrison reported that in August the field verified slightly less than 23,000 new Unemployment Insurance cases and slightly more than 2,000 Disability cases. Including tax and ruling cases, the field verified a total of 25,581 last month. The field disposed of a total of approximately 23,000 cases, of which 21,000 were UI cases, and 1,800 were DI cases. The trends have of late been trending up. For historical comparison, in 2003/04 we had a zenith in workload, and by the end of 2004 the Agency had started to chip away at that. In 2005 the caseload started evaporating to a certain degree, allowing the Agency to catch up; 2006 was a

holding pattern, and 2007 workload started to build up again. It is typical for the Agency that the workload goes up and down with large swings.

It is evident that over the last two years there has been a significant increase in UI cases. In DI cases the trends tend to be longer, and those cases are now also trending up. Until this year, for six straight years, the Agency saw a decrease in caseload in Disability Insurance to the point that by the end of last year the Agency had about half the number of cases it had just three years earlier. In the middle of that period the Paid Family Leave Program began, but claims under that new program have been significantly lower than expected. It is very common for the DI caseload to go up as the unemployment rate starts to rise.

The tax caseload has also been building, but it is mostly in the rate manipulation cases. The number of cases ready for hearing in regular audit cases out in the field is lower now than it was at the beginning of the year. The Agency is in good shape there.

Hugh Harrison reported that the Freeze Disaster has officially been declared over and that there can be no more new claims.

Executive Director Arcellana added that, in regard to workload, for the month of August the Agency's actual disposition level higher than the projected level. From a budgetary prospective that means the Agency is liquidating more than enough work to carry the Agency.

The Agency has hired four new ALJs, two from Sacramento and two from Inland, and two more ALJs will be hired in San Diego, with possibly a few more hires throughout the state in order to keep up with workload. The four new hires are Jonathan Ivy and Margaret Cloudt from the Inland office; and, Barbara Steinhardt-Carter and Barbara O'Hearn from the Sacramento office.

Executive Director Arcellana introduced ALJ Angela Bullard, one of the Agency's trainers. ALJ Angela Bullard presented the new ALJ Training Program via PowerPoint presentation. (Attachment A)

Member Carbaugh inquired if all ALJs were trained in the area of Tax, to which ALJ Angela Bullard responded in the affirmative.

b. Deputy Chief ALJ, Appellate Operations Steve Angelides reported that registrations jumped in July to 120% of average, and that jump continued into August, with registrations at 1,485, which is 116% of the calendar year average. There were 1,191 dispositions, which is 102% of the calendar year average. As a result the balance of open cases at the end of August rose to 2,199, 120% of the calendar year average, and the highest since July 2006. AO transcript production in August was also above average at 7,338 pages, 117% of the calendar year average.

The FO to AO appeal rate returned to normal in August. It was 5.7%, with the calendar year average being 5.8%. This was after a one-month jump to 7.9% in July, which in hindsight may have simply reflected the field holding back cases in June, since the FO to AO appeal rate compares the AO appeals filed in a month with the FO decisions mailed the previous month.

Average UI case age rose to 40 days in August, which is right at the proposed U.S. Department of Labor standard. California has commented to the Department of Labor that California will be able to meet the proposed DOL case aging standard only in times of low workload. Now that the workload is rising, the average case age will probably also continue to rise. AO is working to reduce average case age by revising the acknowledgment and written argument forms.

Member Richardson asked if AO was short staffed at the present time. Deputy Chief ALJ Angelides responded that AO is currently short staffed in registration. He stated that most of the MSTs have promoted to Administrative Services. Member Richardson offered the assistance of Youth and Student Aids currently assigned to FOHQ to help address that shortage. Deputy Chief ALJ Angelides responded that would not be helpful as he does not believe they could be fully trained in registration, as it takes about six months to a year to be fully trained.

c. Deputy Director, Administrative Services Branch, Pam Boston reported that the Safety Training was held on August 27, 28 and 29, and attended by 52 people within the Venture Oaks building. There is one more session scheduled for October 17, and that session will be tailored to meet the specific safety needs of ALJs in their hearings. She stated the feedback has been very positive and that the next step will be to roll the training out into the Field.

Deputy Director Boston reported that the 7th Annual State Employees American Heart and Health Care event is scheduled for September 18 at the State Capitol from 11:30 a.m. to 1:30 p.m. She stated that this year's goal is to raise \$2,500 and to register 25 walkers. She recognized Kim Langan for her hard work as CUIAB's Coordinator for this event, and also the committee members, Christina Borrego, Arlene Rodriguez, Mirella Gomez, Ryann Rojas, Pat McArdle, Mirella Aguirre, Juanita McKelvey, and Ana Ibarra.

Deputy Director Boston reported that the Legal Support Supervisor II and Program Technician III exams were conducted two weeks ago. She served as the Chairperson, with John Zinto and Martha Silva as the other panel members. Member Richardson asked if the exams were oral or written, to which Deputy Director Boston responded that the exams were oral.

d. Deputy Director, Planning and Program Management Branch Mary Walton-Simons reported that the Los Angeles Office of Appeals continues to assist the Sacramento Office of Appeals with their case registration/verification under the CURV pilot project. The two newest pair of offices to join this pilot project are the Orange County and San Diego Offices of Appeals, beginning in August, with an

average of 60 to 125 cases handled each week by the Orange County office for San Diego.

Deputy Director Walton-Simons reported that Ryan Howland, our Information Security Officer, is coordinating the "Information Security" portion of the FISMA audit review. This involves a sample number of desktops and laptops in designated offices tested for security configuration and patch levels, as well as a brief interview with the employees assigned to the PCs or laptops selected.

Finally, Deputy Director Walton-Simons reported that P&PM managers presented information on a number of the agenda items at the Legal Support Supervisory II quarterly meeting. The managers provided information and explanations regarding programs and projects that impacted the supervisors.

Member Carbaugh asked for clarification regarding the assistance of the LA Office to the Sacramento office, in connection with their relative workloads. Deputy Director Walton-Simons responded that Sacramento has a greater number of appeals than Los Angeles, so some of the Sacramento zip codes were switched to Los Angeles. The Los Angeles office verification and registration staff receives the appeals electronically, processes the appeals, puts the files together, and then mails the files to the Sacramento Office of Appeals. The same assistance is occurring between the Orange County and San Diego offices. Member Carbaugh responded that she found that interesting since LA has a greater population base. Executive Director Arcellana stated that in the basin the Agency has Inglewood, Los Angeles, Orange County and Pasadena all clustered, and the Sacramento office sits by itself, and therefore there are more offices in LA to handle a greater capacity.

8. Chief Counsel's Report:

Chief Counsel Ralph Hilton reported that the Board currently has 156 court cases in active litigation. Seven new cases were received in August, five cases were closed, and the Board was affirmed in all five.

Chief Counsel Hilton also reported, with regard to the grocery trade dispute court case (involving the 2003 trade dispute in Southern California), that the case is likely to move on to the Court of Appeals because of a ruling by the court that severely limits the scope of the class designation.

Chief Counsel Hilton also commented that the Case Assignment Report contained in the meeting packets reflects that each Board Member, except for those still undergoing training, are handling approximately 14 cases per day.

9. Unfinished & New Business:

Item: Proposal to Change to Quarterly Meetings

Executive Director Arcellana offered a proposal that the Board change to quarterly, rather than monthly, meetings. He stated that Senior Staff invests a considerable amount of time preparing reports, and that they are supportive of the change. From a budget perspective it would enhance the budget and operations and that this proposal is primarily a workload item for Senior Staff, which also trickles down to middle managers in terms of putting together packets for the board meetings. Executive Director Arcellana respectfully submitted and asked that the Board consider going to quarterly meetings. He stated there is nothing in the Code that requires meetings to be held once a month, and that it is at the discretion of the Board and the Chair. He also stated that there is still the ability to call a board meeting with ten days notice. Lastly, he stated that if the quarterly meetings prove not to be enough, the Board can go back to bi-monthly or once a month meetings. He appreciates from a perception perspective it may not be a good idea, but in reality the perception is that the Board Members hear and decide cases on a regular basis and they meet time lapse standards which is the more important thing in terms of serving the public.

Member Richardson asked if there had ever been quarterly meetings in the past. Executive Director Arcellana responded that it had been very sporadic. Early on when the Agency was going through some formative years the Board met twice a week and then there was a time period when the Board did not meet for nearly six to nine months for a combination of reasons. He stated that over a set period of time there has never been a consistent pattern. The Board has been in the monthly mode for the past two to three years. He stated quarterly meetings may make the meetings longer but he thinks the meetings would be more substantive and would provide for the Board what is developing, some trends on a more legitimate basis than on a monthly basis.

Member Carbaugh stated she would not be prepared to make a decision today. She suggested the Board take the time to think about the proposal and revisit the issue.

Chief Counsel Hilton stated that it is not a vote item but the Chair's singular statutory responsibility to determine when the Board meets.

Member Aguiar inquired as to the cost of having board meetings on a monthly basis and commented that the Board needed to know that before making a decision. Executive Director Arcellana stated he could put together a cost packet. Member Aguiar asked if the Board moved to a quarterly meeting, would it still be possible to have the monthly reports. Executive Director Arcellana responded that would be possible.

Member Figueroa asked if having to prepare those reports duplicates what they do now, would there really be any work savings. Executive Director Arcellana

responded that the written report could be submitted to the Board and physically the Senior Staff could be doing something else.

Member Richardson asked if the Senior Staff prepares those reports regardless. Executive Director Arcellana responded that Senior Staff meets weekly and the week before the board meeting they specifically begin preparation for the board meeting. He stated he meets with the workload staff, the budget staff to put together the presentation and that the difference would be in not having to put a presentation together verses a written report. Member Richardson asked if the reports would be produced regardless of whether there was a board meeting. Executive Director Arcellana responded there would be no problem producing them and that he receives reports from Senior Staff on a weekly basis.

Member Figueroa stated she concurred with Member Aguiar's statement in terms of following up with cost. She requested, for the perception of the public, if a dollar amount of the savings and stated that possibly the Chair could come up with a statement that could solidify as to why the Board would do the quarterly meetings, so that the public is aware of why the Board is doing this.

Member Carbaugh commented that the Board has taken public testimony for the last two board meetings. Executive Director Arcellana responded that usually when a member of the public intends on making a presentation to the Board in open session they would contact him or the Chief Counsel so they generally know when that is going to happen.

Executive Director Arcellana reiterates the Board would still retain the ability to call a board meeting on ten days notice.

Chair Rice asked if the proposal could be put in a document for his review. Executive Director Arcellana responded he could.

Executive Director Arcellana thanked the Board for considering this idea.

Item: Draft Policy on Media Contacts:

Jehan Flagg, Director of Communications, distributed a copy of the draft for a "Policy on Media Contacts, Publications and Speaking Engagements" that she prepared for the Board. The purpose of the document is to make CUIAB employees comfortable with and know how to respond to media contacts and/or reporters. She requested the Board review the document and provide feedback to Chair Rice or herself.

Member Figueroa stated concern and inquired if the document pertains strictly to CUIAB activities, or to any speaking engagement by a Board Member or employee, commenting that she does a lot of media in Spanish that does not pertain to CUIAB. Jehan Flagg responded that it is solely a draft document, and clarified that the policy would apply only to members who are speaking as a CUIAB representative. Member Carbaugh stated she would change the tone of the policy

and make it clearer. That it is not censorship effort and there is no effort to reduce communication to members of the media or public.

Member Figueroa stated that there are other staff that are involved in other activities such as the American Heart Association, the Red Cross and that they are representing the Agency in those activities. Jehan Flagg agreed that was a valid comment.

Jehan Flagg stated that one of the items included in the proposed policy is to make sure the Agency sets up training for the field office staff, particularly those that greet the public, so that they know what their responsibilities are when dealing with the public, reporters and the media.

Chair Rice advised the Board to review the document for discussion at the next meeting.

Chief Counsel Hilton stated that if the intent is for the document to be adopted as an Appeals Board policy, it would need to be noticed for a vote.

Member Carbaugh asked if the Board Members were to work with Jehan Flagg to have a second draft to present to the Board. Chief Counsel Hilton responded that the Board could provide input to Jehan, but should not discuss the policy among themselves outside of a public meeting. Jehan Flagg asked if they could set up a subcommittee. Chief Counsel Hilton responded that the Board could do so, but the number of Board Member participants would be limited, probably to two members.

Chair Rice asked for volunteers for the subcommittee. Member Carbaugh, Chair Rice and Member Figueroa volunteered. Jehan Flagg asked if the committee could also contain non-board members, to which Chief Counsel Hilton responded in the affirmative.

10. Public Comment:

There was no public comment.

11. Closed Session:

The Board went into closed session. No votes were reported from closed session.

Adjournment

A Winning Start

CUIAB Novice ALJ
Training Program

The Sprint



CUIAB's Novice
ALJ Training
Program for the
past five years
has consisted of
three basic
phases:

The Sprint

Phase One

New ALJs spent 1-2 weeks in their home field offices. Under the supervision of their PALJs, they received general agency and office orientation, observed hearings conducted, and reviewed decisions written, by experienced ALJs.

The Sprint

Phase Two

New ALJs reported to FOHQ in Sacramento for one week of intensive formal training on every aspect of their duties: substantive law, hearing conduct, decision writing, ethics, etc.

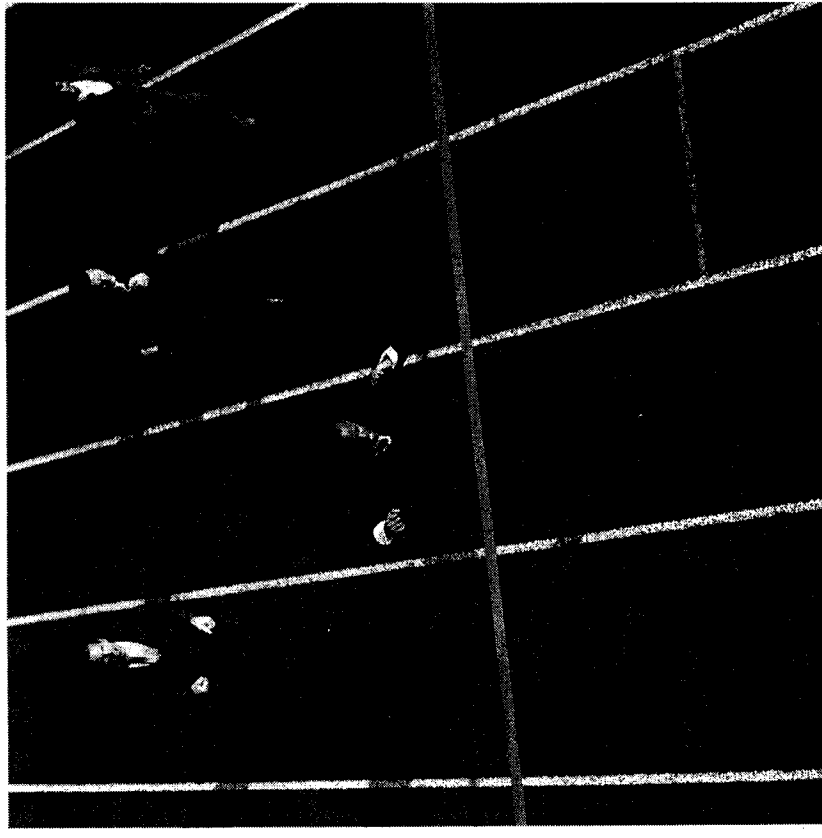
The Sprint

Phase Three

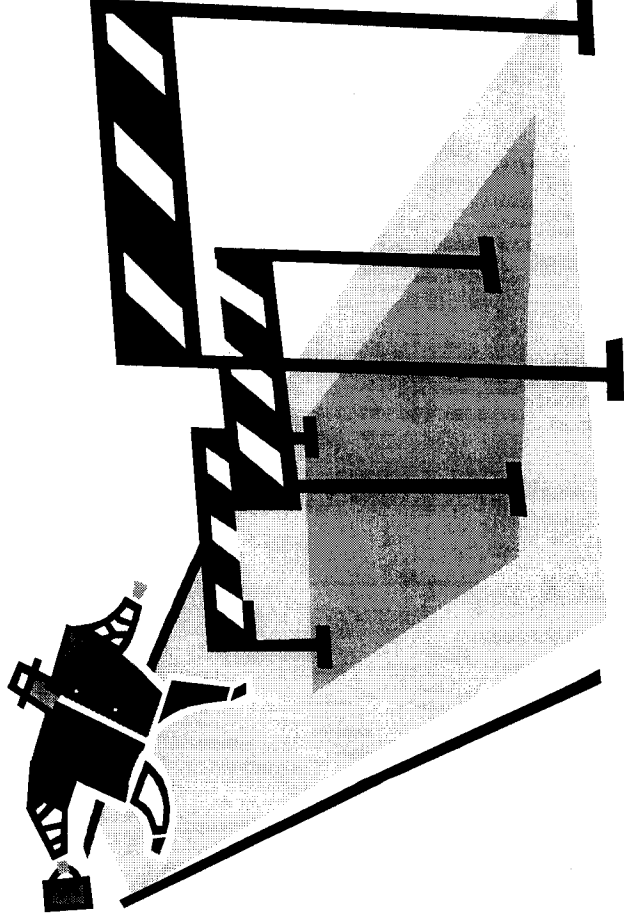
New ALJs returned to their home field offices and commenced an abbreviated hearing schedule. PALJs monitored their progress and provided assistance as necessary or requested. Within a few weeks, new ALJs accelerated to a full calendar.

The Sprint

Adoption of this three phase program marked a significant expansion and formalization of CUIAB's past novice ALJ training practices and successfully addressed the most pressing concerns and needs at the time.



The Hurdles



In 2007, CUIAB's Training PALJ Randy Petersen organized a team to reevaluate the Novice ALJ Training Program. Members were tasked to assess the effectiveness of the existing program and suggest possible improvements.

The Hurdles

The assessment team concluded that the existing program, while a tremendous improvement upon prior novice ALJ training practices, was still far from ideal. The team identified various concerns in the areas of consistency, depth, duration, retention and expansion.

The Hurdles

New Novice ALJ Training Objectives

Consistency: equip each ALJ with a common knowledge base

Depth: offer more than surface exposure to legal concepts and issues

Duration: devote sufficient time to develop real understanding and practical skills

Retention: insure the knowledge and skills are retained and carried back to the field

Expansion: position new ALJs to receive future, additional training successfully

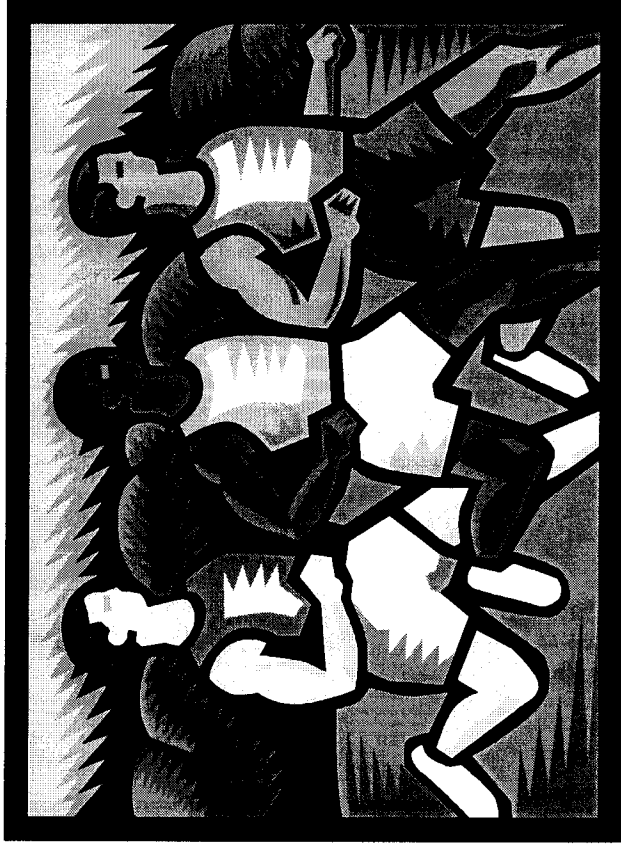
The Relay

The team went on to design a new Novice ALJ Training Program. Trainers will initiate this program with a group of four new ALJs commencing September 11, 2007.



The Relay

The new program continues the trend of expanding and formalizing novice ALJ training. While it remains a three phase program, the phases themselves are longer, deeper and more structured.



The new program views novice ALJ training as a marathon, rather than a sprint.

The Marathon

Phase One

New ALJs still report to their home field offices for orientation under the supervision of their PALJs. However, under the new program, the Training PALJ provides the field PALJs with specific guidance. The field PALJs are responsible for assuring their new ALJs are familiar with certain information and tasks before the new ALJs report for phase two.

This change insures each new ALJ, regardless of home field office, receives consistent information. It also lays a solid foundation for phase two training.

The Marathon

Phase Two

New ALJs report to FOHQ in Sacramento for **five** weeks of intensive training on every aspect of their duties.

While extra time obviously allows trainers to impart a deeper understanding of subject matter, the most significant value lies in the opportunity for new ALJs to hone their practical skills in a highly supervised setting.

The Marathon

Phase Two

Under the prior program, novice ALJs usually had the chance to complete **one** "**mock**" case before returning to the field to start hearing real cases on their own.

Under the new program, novice ALJs will do additional "mock" cases. They will also hear and decide **over 25** **real** cases under the careful supervision of a mentor.

The Marathon

Phase Two

Agenda highlights

Mondays: Field assignments, Trainer/PALJ communications

Week 1: Legal issues-1256; QR; Decision writing; Ethics

Week 2: Legal issues-1253(c)&(e), late appeals/reopenings;
IT; Lexis/Nexis

Week 3: Legal issues-benefit audit; split decisions EDD
process; Legal issues-1253(a); security

Week 4: Conflicting testimony; QR scoring/norming

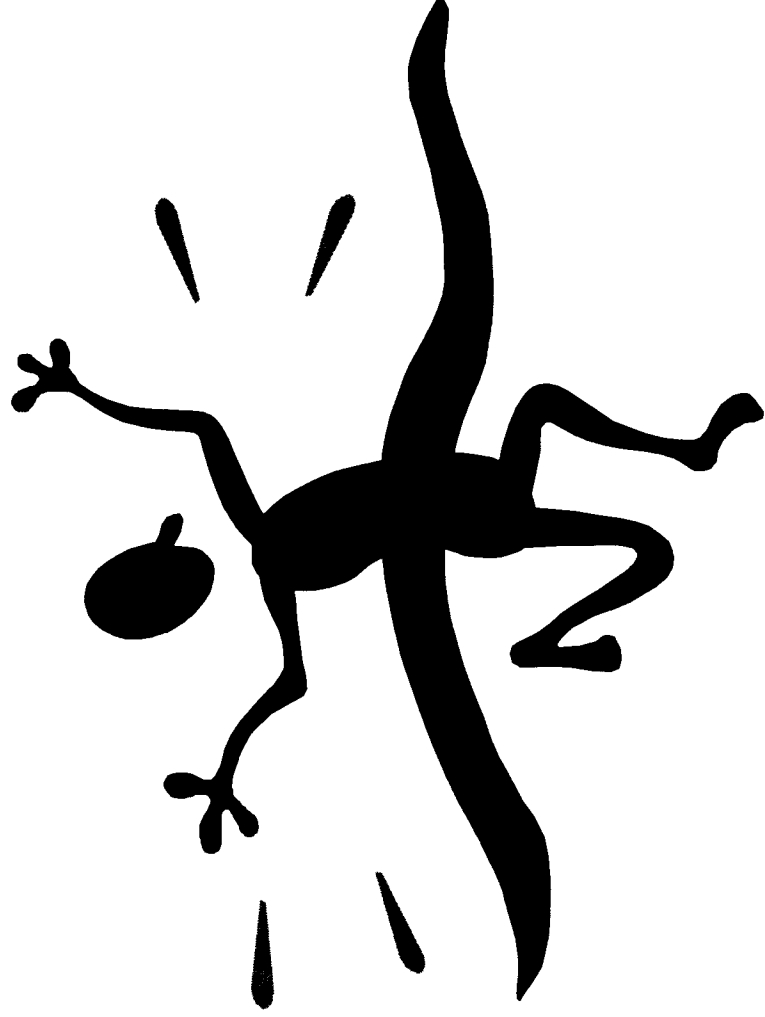
Week 5: Interpreters; phone hearings; complex legal issues;
time/case management; bias

The Marathon

Phase Three

The most intensively trained group of novice ALJs in the history of CUIAB return to their field offices. They possess a comprehensive understanding of all their duties as well as a high comfort level with performing them. They require lower levels of monitoring and assistance. While they still begin with an abbreviated hearing schedule, they more rapidly accelerate to a full calendar.

The Finish Line



The new ALJs,
CUIAB and the
Public we serve
are all winners
under the new
Novice ALJ
Training Program.

A Winning Start

CUIAB Novice ALJ
Training Program